

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.27178 of 2012

Date: 05-10-2015

Between:

Muddada Suribabu

.. Petitioner

AND

The District Collector, Vizianagaram and 2 others

.. Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.27178 of 2012

ORDER:

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Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. With the consent of both parties, the writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the 3rd respondent in issuing the impugned Notice No.730/2011/B, dated 19-06-2012, as illegal and arbitrary and consequently to set aside the same.

The case of the petitioner is that he is absolute owner and possessor of the land admeasuring Ac.3.36 cents in Survey No.6-1/A (new Survey No.35/2, which referred to as latest Survey No.35/4) and Ac.2.25 cents in Survey No.6-

1/C (new Survey No.35/4, which referred to as latest survey No.35/8) of Gujula Rega village, Vizianagaram Mandal and District. It is stated that his father late Ramaswamy used to cultivate about Ac.19.01 cents of dry and wet lands as a tenant of the land in old Survey Nos.6-1/A, 6-1/B and 6-1/C of Gujula Rega village, Vizianagaram Mandal and District, of which Smt. Perlla Annapoorna was the inamdar of the said lands. The father of the petitioner purchased the said lands through Court Receiver in E.P.No.148 of 1952 in O.S.No.42 of 1947 on the file of Principal Subordinate Judge, Visakhapatnam on 10-03-1954 and after the death of his father, the petitioner and his family members inherited the said property. It is stated that the petitioner and his family members have sold away nearly Ac.13.00 of land in old Survey No.6-1/B and his family members have been enjoying all the rights over the remaining land. It is further stated that the action of the respondents in recording the said land as tanks and poramboke lands without issuing any notice to the petitioner is illegal and arbitrary. After purchase of the said lands, the father of the petitioner dug tanks in Survey No.35/4 (Old S.No.6-1/A) and in Survey No.35/8 (old Survey No.6-1/C) and the said tanks are private tanks and the petitioner was the absolute owner and possessor of the said tanks. It is further stated that the petitioner filed an appeal in Rc.No.1599/2011/E before the 2nd respondent seeking correction of the records as to rectify the same are inam Ryotwari lands instead of poramboke lands and for issuance of title deeds and pattadar pass book in favour of the petitioner. It is also stated that pending the said appeal, the 3rd respondent issued a Notice No.730/2011/B, dated 19-06-2012 under Section 7 of the A.P. Land Encroachment Act, 1905, which is the subject matter of challenge.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Learned counsel for the petitioner mainly submits that the petitioner herein filed O.P. before the Revenue Divisional Officer, Vizianagaram in the year 2010 seeking to enquire into the matter and to re-classify the said lands as inam ryotwari lands in the revenue records.

Though the number of the case filed by the petitioner before Revenue Divisional Officer is not produced, it is stated that the said O.P. is pending

before the Revenue Divisional Officer. However, no orders are passed in the said O.P. by the Revenue Divisional Officer, Vijayanagaram. Apart from that, the Revenue Divisional Officer is alleged to have issued a notice to the petitioner on 12-07-2010 asking him to appear before him on 22-07-2010 at 2.00 P.M. in the office with all the recorded evidence. Thereafter, on 19-06-2012, the Tahsildar is alleged to have issued a notice under Section 7 of the A.P. Land Encroachment Act, 1905 stating that the petitioner encroached on to the Government land and asked him to explain as to why he should not be evicted from the said land. Learned counsel for the petitioner submits that the notice dated 19-06-2012 is *per se* illegal, since the appeal is still pending consideration before the Revenue Divisional Officer, Vijayanagaram, but the learned counsel for the petitioner failed to show the nature of the appeal, which is pending before the Revenue Divisional Officer and he is also not in a position to show whether the said appeal refers to the notice dated 12-07-2010.

Having regard to the facts and circumstances of the case and since the present writ petition came to be filed questioning the very issuance of notice, and as there is no further progress in the matter after issuance of the said notice, the petitioner is directed to submit his explanation to the show cause notice dated 12-07-2010 raising all his objections with regard to initiation of proceedings under the Act, within six weeks from today, if not already made and the Tahsildar, Vijayanagaram, shall consider the same and pass appropriate orders in accordance with law at the earliest.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 05-10-2015

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